

AMENDMENT NO. 1

TO AGREEMENT FOR CONTRACT SERVICES

THIS FIRST AMENDMENT TO THE AGREEMENT FOR CONTRACT SERVICES (“First Amendment”) by and between the CITY OF CARSON, a California municipal corporation (“City”) and WEST COST ARBORISTS, INC., a California corporation (“Contractor”) is effective as of the 1st day of July, 2017.

RECITALS

A. City and Contractor entered into that certain Agreement for Contractual Services dated July 1, 2014 (“Agreement”) whereby Contractor agreed to provide Tree Maintenance Services for Fiscal Years 2014/15 thru 2016/17, for a total not to exceed Contract Sum of Nine Hundred Seventy Eight Thousand Nineteen Dollars (\$978,019) for the total Services provided for the three fiscal years.

B. In authorizing the Agreement, the City Council concurrently authorized an additional annual expenditure of up to twenty percent (20%) of the Contract Sum, or Sixty Five Thousand Two Hundred (\$65,200), for unforeseen additional trimmings outside the normal scope of work (“Additional Expenditure”).

C. City and Contractor now desire to amend the Agreement (i) to memorialize the Additional Expenditure; and (ii) to extend the Agreement by a period of six (6) months commencing on July 1, 2017, and terminating on December 31, 2017, and to provide for the payment of Services during the six-month extension under the same terms and pricing agreed to and memorialized in the Agreement, which consist of a compensation amount not to exceed One Hundred Ninety Five Thousand Six Hundred Dollars (\$195,600) for the total six (6) month period and an additional expenditure of up to twenty percent (20%) of that amount, or Thirty Nine Thousand One Hundred Twenty Dollars (\$39,120) for that same period for unforeseen additional trimmings outside the normal scope of work (“First Amendment”).

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (new text is indicated in ***bold italics*** and deleted text is shown in ~~strikethrough~~):

- A. **“2.1 Schedule of Compensation.** For Services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “B” and incorporated herein by this reference, but not exceeding the contract amount of ***One Million Four Hundred Eight Thousand Three Hundred Forty Two Dollars Eighty Cents (\$1,408,342.80)***~~Nine Hundred Seventy Eight Thousand, and Nineteen (\$978,019.00), (“Contract Sum”)~~~~over the three fiscal years (FY 2014/15 thru FY 2016/17)~~, except as provided in Section 2.3. The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with

the percentage of completion of the services, (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City; Contractor shall not be entitled to any additional compensation for attending said meetings."

B. **"3.4 Term & Extended Term(s).** Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect from July 1, 2014 until ~~June 30, 2017~~ **December 31, 2017 ("Term")**. City reserves the right, in its sole and unfettered direction, to administratively extend the Term of this Agreement for up to a maximum of one (1) three-year extended term (an "Extended Term"). City shall exercise its right to extended the Term of the Agreement by providing Contractor with written notice from the City's City Manager of its intent to extend the Term of this Agreement not less than thirty (30) calendar days prior to the expiration of the Term of this Agreement."

C. **"Exhibit "B" (Schedule of Compensation)** For services rendered pursuant to this Agreement, Contractor shall be compensated **during the Term of this Agreement** as set forth herein, ~~for FY 2014/15 through FY 2016/17, the an amount of \$978,019.00~~ **not to exceed One Million Four Hundred Eight Thousand Three Hundred Forty Two Dollars Eighty Cents (\$1,408,342.80)**, payable as invoiced for services rendered pursuant to the per tree rates set forth in the Proposal under the heading "Cost of Services," attached hereto and incorporated herein. **Payment for Services under this Agreement shall be made pursuant to the following compensation schedule:**

(i) for services within the Scope of Services contemplated in this Agreement rendered during the three (3) fiscal years commencing FY 2014/15 and terminating FY 2016/17, Contractor shall be paid an amount not to exceed Nine Hundred Seventy Eight Thousand Nineteen Dollars (\$978,019);

(ii) for services beyond the Scope of Services contemplated in this Agreement rendered during the three (3) fiscal years commencing FY 2014/15 and terminating FY 2016/17, Contractor shall be paid an amount not to exceed Sixty Five Thousand Two Hundred Dollars (\$65,200);

(iii) for the period commencing on July 1, 2017 and terminating on December 31, 2017 Contractor shall be paid a total amount not to exceed One Hundred Ninety Five Thousand Six Hundred Dollars (\$195,600) for those six (6) months; and

(iv) for services beyond the Scope of Services contemplated in this Agreement rendered during the period commencing on July 1, 2017 and terminating on December 31, 2017, Contractor shall be paid a total amount not to exceed Thirty Nine Thousand One Hundred Twenty Dollars (\$39,120).

Notwithstanding anything herein to the contrary, effective July 1, 2015 and on each July 1 thereafter, the compensation paid to Contractor shall be adjusted annually to rates that are based upon March-to-March changes in the Consumer Price Index (CPI), All Urban Consumers, for Los Angeles-Anaheim-Riverside area, as published by the United States Department of Labor, Bureau of Labor Statistics.”

- D. The “**GRAND TOTAL**” in the attachment to the Agreement entitled “**XVI BID SCHEDULE**” is hereby amended to read “*One Million Four Hundred Eight Thousand Three Hundred Forty Two Dollars Eighty Cents*” and “*\$1,408,342.80*”.

2. **Continuing Effect of Agreement.** Except as amended by this Agreement, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia L. Gause, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[mgm]

CONTRACTOR:

WEST COAST ARBORISTS, INC.

By: _____
Name: Patrick Mahoney
Title: President

By: _____
Name: Richard Mahoney
Title: Assistant Secretary
Address: West Coast Arborists, Inc.
2200 E. Via Burton Street
Anaheim, CA 82806

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2017 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
<div style="text-align: center;">_____ TITLE(S)</div> <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	<div style="text-align: center;">_____ TITLE OR TYPE OF DOCUMENT</div>
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	
<input type="checkbox"/> GUARDIAN/CONSERVATOR	<div style="text-align: center;">_____ NUMBER OF PAGES</div>
<input type="checkbox"/> OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	<div style="text-align: center;">_____ DATE OF DOCUMENT</div>
	<div style="text-align: center;">_____ SIGNER(S) OTHER THAN NAMED ABOVE</div>

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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	<input type="checkbox"/> GENERAL	
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<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	
<input type="checkbox"/>	OTHER _____	
SIGNER IS REPRESENTING:		DATE OF DOCUMENT
(NAME OF PERSON(S) OR ENTITY(IES))		

_____		SIGNER(S) OTHER THAN NAMED ABOVE